

ORDINANCE NO. 1938

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING THE MILWAUKIE MUNICIPAL CODE BY ADOPTING CERTAIN TEXT AMENDMENTS TO CHAPTER 19.312 DOWNTOWN ZONES

WHEREAS, the Planning Commission conducted a public hearing on September 28, 2004, in accordance with Milwaukie Municipal Code Chapter 19.900 and adopted a resolution recommending the City Council adopt the proposed code changes; and

WHEREAS, the Design and Landmarks Commission reviewed the proposal in an advisory capacity on September 29, 2004, and adopted a motion concurring with the September 28, 2004 Planning Commission action; and

WHEREAS, the City Council conducted a public hearing on October 19, 2004, in accordance with Milwaukie Municipal Code Chapter 19.900; and

WHEREAS, the requested code amendments implement the following:

1. Designation of the former Safeway site at Harrison Street and Main Street in downtown Milwaukie as the "Village Concept Area", formerly planned for a transit center.
2. Housekeeping changes as needed to accommodate first floor housing in the Village Concept Area in areas not fronting on Main Street.
3. Allowing parking and curb cuts on Main Street under certain circumstances, which acknowledges the desire to provide parking at the time of development thereby minimizing parking conflicts and ensuring adequate parking for shoppers, businesses, and prospective downtown residents.
4. Authorizing upper story projections into the right-of-way to accommodate desirable architectural features like residential balconies.
5. Clarifying that "prohibited" exterior building materials may be authorized in certain cases.

NOW, THEREFORE, THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. The proposed amendments to the Milwaukie Municipal Code Chapter 19.312 as described in Exhibit 1 are hereby adopted and incorporated into the Milwaukie Municipal Code.

Section 2: All changes to section citations and references required by adoption of the amendments are automatically adopted.

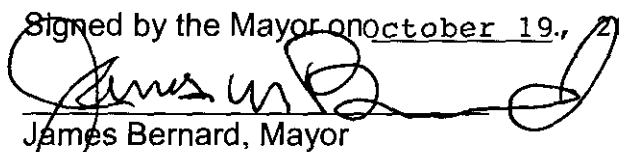
Section 3 The proposed amendment to Section 19.312, Figure 19.312 -1, Downtown Zoning Map, showing the zoned "Village Concept Area" as in Exhibit 2, is hereby adopted and incorporated into the Zoning Ordinance and Zoning Map.

Section 4. Findings of fact in support of these amendments as described in Exhibit 3 are hereby adopted.

Read for the first time on 10/19/04 and moved to a second reading by 5-0 vote of the City Council.

Read for the second time and adopted by the City Council on October 19, 2004

Signed by the Mayor on October 19, 2004

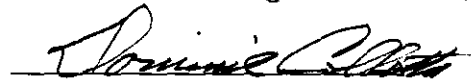


James Bernard, Mayor

ATTEST

APPROVED AS TO FORM
Ramis Crew Corrigan Baccrach, LLP

Pat Duval
Pat Duval, City Recorder


City Attorney

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Exhibit 1

Amendments to Milwaukie Municipal Code Chapter 19.312¹

1. Amend Section 19.312.2 (A) as follows:

Downtown Storefront (DS) The downtown storefront zone is established to preserve and enhance the commercial "Main Street" character of downtown Milwaukie, ensuring that new development in areas designated DS is compatible with this desired character. This zone allows a full range of retail, service, business and residential uses. Retail uses are required on the ground floors of buildings fronting on Main Street. Office and/or residential uses are allowed on upper floors. Industrial uses are not allowed. The desired character for this zone includes buildings that are built to the right-of-way and oriented toward the pedestrian, with primary entries located along streets rather than parking lots. A "Village Concept Area" has been established in the DS zone to allow a broader mix of uses on a city-owned site adjacent to the library, City Hall, a high density residential area to the north, and existing Main Street storefront uses. These uses include townhouses and multifamily apartment/condominium buildings.

2. Amend Table 19.312.3 Downtown Zones Use Table as Follows

- a. Change the code in the Downtown Zone column code from "N" to "L (1)" in the "Townhouse" row.
- b. Change code in the Downtown Zone Column from "N" to "L(10)" in the "Multifamily, apartment/condominium" row.

3. Amend Section 19. 312.3(G)(1) Limited Uses as follows:

(Explanatory Note: Section 19.312.3 (G) describes limitations that apply to use categories identified in Table 19.312.3.)

1. Townhouse development is permitted only in a limited area of the downtown residential zone as identified on the zoning map (see "Transitional Residential Area" on Figure 19.312-1). This limited use provision is intended to provide an opportunity for owned,

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- a. Underlined text is to be inserted and ~~strikethrough~~ text to be deleted.
- b. Certain changes are also described by narrative without the use of strikeout or underlined text.
- c. There shall be no change to unmarked existing text and to any text that is not specifically included herein.
- d. "Explanatory notes" that appear in this exhibit do not amend the code.

attached housing at a minimum density of ten units per acre. Townhouse development is permitted only in a limited area of the downtown storefront zone as identified on the zoning map (see "Village Concept Area" on Figure 19.312-1. Townhouses shall not be located within 50 feet of the Main Street frontage within the "Village Concept Area".

4. Amend Section 19. 312.3(G) Limited Uses by adding the new subsection 19. 312.3(G)(10) as follows:

10. Multifamily apartment/condominium building development is permitted only in a limited area of the downtown storefront zone as identified on the zoning map. See "Village Concept Area" on Figure 19.312-1.

5. Amend Footnote #2 of Table 19.312.4 Development Standards as follows:

(Explanatory Note: This is a housekeeping amendment as needed to establish minimum lot sizes for townhouse development authorized in the "Village Concept Area" under this ordinance.)

2. ~~Townhouse lots in the transitional residential area~~ may be as small as seven hundred fifty square feet. All other lots created in the DR zone shall be a minimum of five thousand square feet.

6. Amend Section 19.312.4(B)(10)(c) regarding offstreet parking as follows:

- c. Off-street surface parking lots (including curb cuts) shall not be located within fifty feet of the Main Street right-of-way. The Planning Commission may permit off-street parking lots and curb cuts within 50 feet of the Main Street right-of-way only on the finding in a public hearing that:
- i. The overall project meets the intent of providing a continuous facade of buildings close to Main Street;
 - ii. The off-street parking area or curb cut is visually screened from view from Main Street; and
 - iii. The community need for the off-street parking area or curb cut within 50 feet of Main Street outweighs the need to provide a continuous façade of buildings in that area.

7. Repeal Section 19.312.4(B)(11)(b).

(Explanatory Note: This amendment combined with amendment #8 below, relocates the dimensional standards for residential balconies from 19.312.4 to 19.312.6.)

8. **Amend Section 19.312.6(C)(1) by adding a new subsection 19.312.6(C)(1)(d) as follows:**

d. Residential Balconies.

- i. Balconies for residential units shall have a minimum depth of six feet and minimum width of eight feet.

9. **Amend development standards of Section 19.312.4(B) by adding new subsection 19.312.4(B)(12) as follows:**

12. Right-of-Way projections. Right-of-way projections of up to four feet are permitted in all downtown zones for upper-level, unenclosed balconies. All applicable building, fire, safety and public works standards shall also be met prior to permitting such balcony projections.

10. **Amend modification of design standards of Section 19.312.7(J) as follows:**

(Explanatory Note: This amendment corrects a prior editing omission in the second paragraph of 19.312.7(J).)

A modification to a design standard may be granted at a public hearing in accordance with Section 19.1011.3 when all of the following criteria is are satisfied:

11. **Amend Section 19.312.7 by adding a new section 19.312.7(K) authorizing the use of materials prohibited under 19.312.6(C) as follows:**

K. Consideration of prohibited materials or design features. The planning commission may authorize the use of prohibited materials or design features specified in 19.312(C) subject to the following criteria:

1. The applicant demonstrates that the prohibited material is substantially comparable to an allowed material with regards to quality, appearance, style, architectural effect, and durability.
2. Use of the prohibited materials is consistent with design considerations specified for the particular design element in the Milwaukie Downtown Design Guidelines.

Exhibit 2

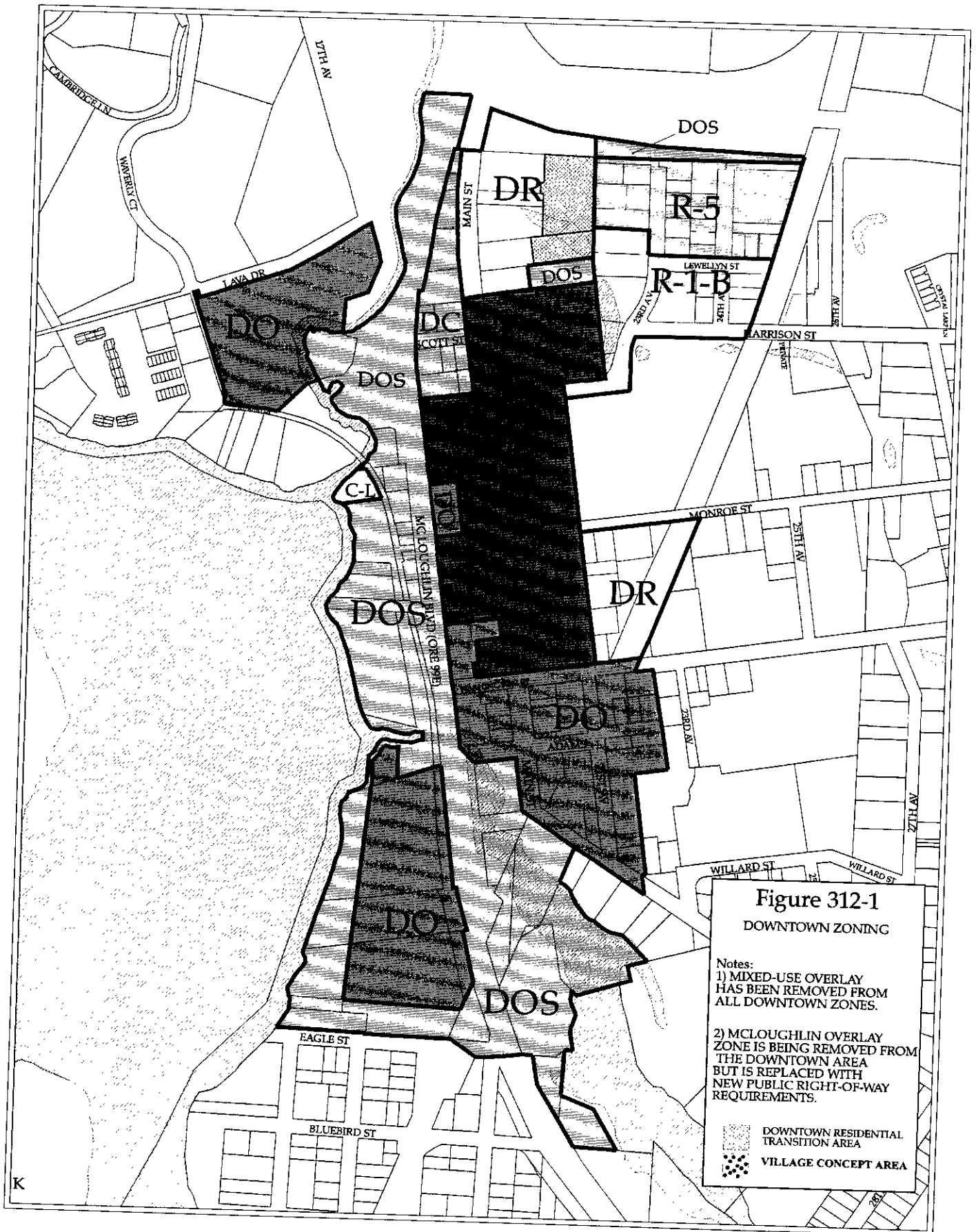


Exhibit 3
Findings of Fact and Conclusions

1. The proposed zoning map amendment is consistent with Milwaukie Municipal Code 19.1011.4 Major Quasi Judicial Review provisions for amending the Zoning Map as follows:
 - a. Public notice and property owner notice was conducted in accordance with Section 19.1011.4(B).
 - b. The Planning Commission conducted a public hearing on September 28, 2004, and forwarded a recommendation to the City Council to approve the zoning map changes in accordance with Milwaukie Municipal Code 19.1011.4(D).
2. The proposed legislative amendments to the Zoning Ordinance are consistent with Milwaukie Municipal Code Section 19.1011.5 as follows:
 - a. Public notice and property owner notice was conducted in accordance with Section 19.1011.5(A).
 - b. The Planning Commission conducted a public hearing on September 28, 2004 and forwarded a recommendation to the City Council to approve the zoning amendments in accordance with Milwaukie Municipal Code 19.1011.5(B).
3. The proposed amendments have been processed in accordance with Milwaukie Municipal Code Chapter 19.900 Amendments as follows:
 - a. The reason for the zoning map change is to acknowledge the City Council's policy change from the prior transit use to mixed use development thereby extending high density residential uses to the site.
 - b. The code amendments implement the following:
 1. Designation of the former Safeway site at Harrison Street and Main Street in downtown Milwaukie as the "Village Concept Area" which was formerly planned for a transit center.
 2. Housekeeping changes as needed to accommodate first floor housing in the Village Concept Area in areas not fronting on Main Street.
 3. Allowing parking and curb cuts on Main Street under certain circumstances, which acknowledges the desire to provide parking at the time of development thereby minimizing parking conflicts and ensuring adequate parking for shoppers, businesses, and prospective downtown residents.

4. Authorizing upper story projections into the right-of-way to accommodate desirable architectural features like residential balconies.
 5. Clarifying that “prohibited” exterior building materials may be authorized in certain cases.
4. The amendments have been evaluated in accordance with Milwaukie Municipal Code Section 19.905, which requires demonstration of the following:
- a. Conformance to applicable comprehensive plan policies, consistency with provisions of city ordinances, the Metro Urban Growth Management Functional Plan, and applicable regional policies.

Consistency with the Comprehensive Plan

The Downtown and Riverfront Land Use Framework Plan, which was made part of the Comprehensive Plan under Ordinance 1880, includes the development principle of maintaining a continuous retail facade along Main Street. The code amendment allowing parking and curb cuts on Main street modifies the above principle by acknowledging the desire to provide parking while substantively complying with continuous building facade requirements thereby minimizing parking conflicts and ensuring adequate parking for shoppers, businesses, and prospective downtown residents.

The public information and outreach process for the proposed amendments was consistent with applicable citizen involvement policies of Milwaukie Comprehensive Plan Chapter 1.

Consistency with City Ordinances

The Downtown and Riverfront Land Use Framework Plan principle of continuous building facade along Main Street is implemented through the following provisions of the Milwaukie Municipal Code:

1. Figure 312-4 Required Build-to Lines
2. Section 19.312.4(B)(5)(c) Zero Front Yard Allowance.
3. 19.312.4(B)(10) Off Street Parking.
4. 19.321.2(A) Characteristics of the Downtown Storefront Zone

By adoption of this ordinance exceptions to the continuous building facade are expressly authorized. Therefore no inconsistency between the amendment and the related code provisions exists.

Consistency with the Functional Plan and Regional Policies

There are no directly applicable functional plan or other regional policies.

- b. Future development must meet the intent of the proposed zone change taking into account numerous considerations. The relevant code change with regards to this criterion is allowing residential development on the ground floor in the Village Concept Area approved under this ordinance and allowing curb cuts and parking along Main Street under certain circumstances.

The intent of the Downtown Storefront Zone as adopted under Ordinance 1880 includes the following:

1. Preserve and enhance the "Main Street" character of downtown Milwaukie.
2. Support a full range of retail, service, business, and residential uses.
3. Require retail uses on Main Street.
4. Allow office and residential uses on upper floors.
5. Construct buildings close to the street.

The relevant amendments adopted under this ordinance refines the intent of the Downtown Storefront zone by expressly allowing first floor housing in the Village Concept Area and allowing parking on Main Street when a project provides a substantial building facade along the street.

Section 905.1(B) Considerations

The proposal has been evaluative with respect to the six considerations of Section 905.1(B). It has been determined that the site is suitable for the proposed Village Concept Area and that the concept area supports the existing pattern of development in accordance with the adopted Downtown and Riverfront Land Use Framework Plan.

- c. Section 19.905.1(C) also specifies demonstration of compliance with regional policies, but adds state and federal policies as well. City code and policies that govern the code amendment process are consistent with statewide planning goals. There are no directly applicable federal policies.
- d. Section 19.905.1(D) requires consideration as to whether new demands for public services related to an amendment will constrain development potential within the affected service area. The relevant code change is the adopted allowance of first floor housing within the Village Concept Area. The primarily affected facilities include water, sewerage, and stormwater systems. Adequate capacity exists in these systems to serve existing and potential development contemplated by the proposed amendment and the development achievable under the Downtown and Riverfront Land Use Framework Plan.

- e. Section 19.905.1(E) requires consideration of the effect of an amendment on the functional classification, capacity, and level of service of the transportation system. The relevant code change is the adopted allowance of first floor housing within the Village Concept Area. Existing uses allowed in the Downtown Storefront zone include several that have a higher trip generation rate than residential. Therefore the overall potential traffic impact of development is associated with allowed uses that have higher trip generation than first floor residential development that may result from the amendment.
- 5. By the same reasoning above, Milwaukie Municipal Code 19.1403, has been satisfied. The proposal does not increase development potential over existing potential in comparison to presently allowed uses.
- 6. The Downtown and Riverfront Land Use Framework Plan will be amended to eliminate the transit center originally proposed for the former Safeway site located on Harrison Street and Main Street.

(End of Exhibit)